

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF EMPIRE STATE
CARPENTERS ANNUITY,
APPRENTICESHIP, LABOR-MANAGEMENT
COOPERATION, PENSION and
WELFARE FUNDS,

MEMORANDUM & ORDER
15-CV-2053 (JS) (SIL)

Petitioner,

-against-

P & B SPECIALTIES INC.,

Respondent.

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APPEARANCES

For Petitioners: Charles R. Virginia, Esq.
Virginia & Ambinder LLP
40 Broad Street, 7th floor
New York, NY 10004

For Respondent: No appearances.

SEYBERT, District Judge:

Pending before the Court is Magistrate Judge Steven I. Locke's Report and Recommendation ("R&R"), recommending that this Court confirm an arbitrator's order and enter a judgment that directs Respondent P & B Specialties Inc. to (1) submit to an audit and (2) pay \$4,567.50 in costs and fees. (Docket Entry 16.) For the following reasons, the Court ADOPTS Judge Locke's R&R in its entirety.

BACKGROUND

This action to confirm an arbitration award was commenced on April 13, 2015 by petitioner Trustees of Empire State

Carpenters Annuity, Apprenticeship, Labor-Management Cooperation, Pension and Welfare Funds (the "Trustees") against Respondent P & B Specialties Inc. ("P&B").

On April 13, 2015, the Trustees filed its Petition seeking to confirm an arbitrator's award issued against P&B. (Docket Entry 1.) On August 5, 2015 the undersigned referred the Trustees' Petition to Magistrate Judge Locke for an R&R on whether the Petition should be granted. (Docket Entry 8.)

On December 14, 2015, Judge Locke issued his R&R. (Docket Entry 16.) The R&R recommends that the Court confirm the arbitrator's audit order and that judgment be entered directing P&B to: (1) submit to an audit, and (2) pay Trustees \$4,567.50, comprised of \$900.00 in arbitration-related legal fees, the arbitrator's \$750.00 fee, \$2,450.00 in attorneys' fees, and \$467.50 in costs (R&R at 12.) The R&R further recommends that the Court deny the portion of Petition seeking a judgment for an estimated deficiency award, interest, and liquidated damages. (R&R at 12.)

DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If no timely objections have been made, the "court need only satisfy itself that there is no clear error on the face

of the record.” Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotation marks and citation omitted).

Objections were due within fourteen days of service of the R&R. The time for filing objections has expired, and no party has objected. Accordingly, all objections are hereby deemed to have been waived.

Upon careful review and consideration, the Court finds Judge Locke’s R&R to be comprehensive, well-reasoned, and free of clear error, and it ADOPTS the R&R in its entirety.

CONCLUSION

Judge Locke’s R&R (Docket Entry 16) is ADOPTED in its entirety. The Court is directed to enter judgment in favor of the Trustees and against P&B in the amount of \$4,567.50. Petitioners are directed to serve a copy of this Memorandum & Order on Respondent and file proof of service. The Clerk of the Court is further directed to mark this matter CLOSED.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: January 29, 2016
Central Islip, New York